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**Building Trades National  
Drug and Alcohol Testing  
Program and Policy**

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**Effective June 1, 2011**

**BUILDING TRADES NATIONAL  
DRUG AND ALCOHOL TESTING  
PROGRAM AND POLICY**

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## **Section 1. INTRODUCTION**

The affiliates of the Building and Construction Trades Department, AFL-CIO (BCTD), along with owners and contractors, are committed to providing a safe workplace for those working in the organized construction industry. Cooperative effort is needed to overcome the adverse impact of substance abuse on workplace safety, productivity, and quality of work. This Building Trades National Drug and Alcohol Testing Program and Policy (BTNDAP) resulted from that effort. The BTNDAP establishes a single minimum testing standard for illegal drugs and alcohol on participating job sites. The BTNDAP applies to all employees and potential employees of contractors and subcontractors at all tiers, including bargaining unit and non-bargaining unit employees. Bargaining unit employees are entitled to union representation at all stages of the BTNDAP.

Employee education about the hazards of drug use is an important part of a successful drug-free workplace program. Equally important is protecting employees' dignity and privacy. Therefore, the BTNDAP includes policies and procedures for: (1) employee education; (2) supervisory training; (3) employee assistance; and (4) identification of illegal/controlled drug use and alcohol abuse through testing on a carefully controlled and monitored basis.

## **Section 2. DEFINITIONS**

### **ALCOHOL SCREENING DEVICE (ASD)**

A breath or saliva device, other than an evidential breath testing device (EBT), approved by the National Highway Traffic Safety Administration (NHTSA) and placed on its Conforming Products List (CPL) for such devices.

### **ALCOHOL CONFIRMATION TEST**

A test conducted by a Breath Alcohol Technician using an EBT listed on the NHTSA's CPL to measure the amount of alcohol concentration in a volume of breath.

### **ALCOHOL SCREENING TEST**

A test conducted by a Breath Alcohol Technician (BAT) or a Screening Test Technician (STT) using an alcohol screening device, other than an EBT, listed on the NHTSA's CPL.

### **BREATH ALCOHOL TECHNICIAN (BAT)**

A person who instructs and assists employees in the alcohol testing process and operates an EBT.

### **BTNDAP**

The Building Trades National Drug and Alcohol Testing Program and Policy.

### **CHAIN OF CUSTODY (COC)**

The COC is a document that tracks the handling of specimens from the time the donor provides the specimen to the collector until the final disposition of the specimen and its aliquots, providing proof of the integrity and identification of the sample.

### **CHARGEABLE ACCIDENT**

An accident:

- a. related to employment that results from the employee's negligence and results in property or vehicular damage of one thousand dollars (\$1,000.00) or more; and/or
- b. related to employment that requires any offsite medical treatment or involves an injury or illness that constitutes an OSHA Recordable Incident.

### **CONFIRMATION TESTING**

– For alcohol testing, a second test following a screening test with a result of 0.02 or greater. Confirmation of the screening test must be by use of an EBT listed on the NHTSA's CPL, and must be capable of printing out each test result, must successfully test an air blank, and must sequentially number each test.

– For drug testing, a second test, independent of the screening test, to identify the presence of a specific drug metabolite(s) and which uses the Gas Chromatography/Mass Spectrometry (GC/MS) method for testing.

### **CONFORMING PRODUCTS LIST (CPL)**

The NHTSA's list of EBTs and ASDs for use in alcohol testing.

### **CONTROLLED SUBSTANCES**

Any drug that is included in Schedules I to V of the Controlled Substances Act, 21 U.S.C. § 812.

### **COVERED PROJECT**

A project to which the BTNDAP applies.

### **CURRENT**

Employees with "current" status have submitted to laboratory drug testing, have tested negative, or have tested positive and a Medical Review Officer (MRO) has determined that there is a legitimate medical explanation for the positive test result and has reported the result as negative.

### **DATABASE ADMINISTRATOR**

The entity that maintains the national database of all individuals tested pursuant to the BTNDAP or a program granted reciprocal status.

**DRUGS**

The drugs and substances set forth in the BTNDAP.

**EVIDENTIAL BREATH TESTING DEVICE (EBT)**

A device approved by the NHTSA for the evidential testing of breath and placed on NHTSA's CPL for EBTs.

**EXECUTIVE DIRECTOR**

The Executive Director of the BTNDAP.

**ILLEGAL DRUG**

Any drug that is included in Schedules I to V of the Controlled Substances Act, 21 U.S.C. § 812, but not when used pursuant to a valid prescription and used as otherwise authorized by federal law.

**MEDICAL REVIEW OFFICER (MRO)**

A licensed physician with knowledge of substance abuse disorders, who is responsible for receiving and reviewing drug test results and determining if there are legitimate medical explanations for positive test results, such that the test result should be deemed negative.

**NATIONAL DATABASE**

A database maintained by the Database Administrator of all individuals tested pursuant to the BTNDAP and individuals tested under other drug and alcohol testing programs that have been granted reciprocal status.

**NHTSA**

National Highway Traffic Safety Administration.

**NOT CURRENT**

Employees who are not in compliance with the BTNDAP due to not having undergone laboratory drug testing, missing a scheduled test or producing a diluted, adulterated, and/or a positive test result without a legitimate medical explanation, annual test expiration, or any other violation of the BTNDAP.

**NOTICE AND ACKNOWLEDGEMENT OF BUILDING TRADES NATIONAL DRUG AND ALCOHOL PROGRAM TESTING REQUIREMENTS**

A form the employee must sign prior to testing that notifies the employee that there is a substance abuse policy, acknowledges that the employee understands the substance abuse policy, and consents to be tested with the related consequences of a positive test result or refusal to be tested.

**P.O.C.T.**

An instant-result drug test of a urine specimen that is performed at the "point of collection."

### **QUALIFIED PROFESSIONAL**

A licensed physician (Doctor of Medicine or Osteopathy), licensed or certified social worker, licensed or certified psychologist, licensed or certified employee assistance professional, alcohol and drug counselor certified by the NAADAC Certification Commission (NCC) or the International Certification Reciprocity Consortium/Alcohol and Other Drug Abuse (ICRC), labor assistance professional (LAP), or substance abuse professional (SAP) who: (1) is knowledgeable about and has clinical experience in the diagnosis and treatment of alcohol and drug related disorders; (2) is knowledgeable about the effect of alcohol and drug related disorders as they relate to employer interests in safety-sensitive duties; and (3) is knowledgeable about the rules that govern the particular workplace of the employer for whom the employee has applied for work, works or worked.

### **RECIPROCAL STATUS**

Status granted by the BTNDAP to a regional or national drug and alcohol testing program that meets the minimum standards set forth in Section 16 of the BTNDAP. A program that has been granted reciprocal status will exchange testing data with the BTNDAP to keep both databases current.

### **REFUSAL TO TEST**

An employee or potential employee has refused to take a drug and/or alcohol test if the employee:

- a. Fails to appear for any test within a reasonable time, after being directed to do so by the employer, the MRO, or another authorized individual.
- b. Fails to remain at the testing site until the testing process is complete;
- c. Fails to provide a urine specimen for any drug test;
- d. In the case of a directly observed or monitored collection, fails to permit the observation or monitoring of the provision of a specimen;
- e. Fails to provide a sufficient amount of urine when directed, and it has been determined, through a required medical evaluation, that there was no adequate medical explanation for the failure;
- f. Fails or declines to take an additional drug and/or alcohol test the MRO has directed;
- g. Fails to undergo a medical examination or evaluation, as directed by the MRO as part of the verification process;
- h. Fails to cooperate with any part of the testing process (e.g., refuses to empty pockets when so directed by the collector, behaves in a confrontational way that disrupts the collection process); or

- i. Fails to sign a Notice and Acknowledgement of Building Trades National Drug and Alcohol Program Testing Requirements Form.

### **Section 3. COMMITMENT TO CONFIDENTIALITY**

Protecting employee confidentiality is a primary interest of labor, owners, and contractors. Towards that end, there will be designated Medical Review Officers (MRO) who will be the sole individuals who have access to employee medical records. The MRO, the BTNDAP Executive Director, and the employer's designated representative will be the only individuals who have access to employee drug testing results. Where applicable, MROs shall follow the procedures set forth in 49 CFR Part 40.

- a. Contractors will designate a specific representative as the contact person who will be the only individual to receive information from the MRO and BTNDAP Executive Director. Contractors will also designate an alternate representative to receive such information in the event that the primary representative is unavailable.
- b. The following procedures and guidelines regarding confidentiality will be strictly observed:
  - 1. Except as otherwise provided herein, individual test results or medical information about an employee shall not be disclosed to third parties without the employee's specific written consent. A "third party" is any person or organization to whom the BTNDAP does not explicitly authorize or require the transmission of information in the course of the drug or alcohol testing process.
  - 2. Information pertaining to an employee's drug or alcohol test may be disclosed without the employee's consent in certain legal proceedings.
    - (a) These proceedings include a lawsuit (e.g., a wrongful discharge action), grievance (e.g., an arbitration concerning disciplinary action taken by the employer), or administrative proceeding (e.g., an unemployment compensation hearing) brought by, or on behalf of, an employee and resulting from a positive drug or alcohol test or a refusal to test (including, but not limited to, adulterated or substituted test results).
    - (b) These proceedings also include a criminal or civil action resulting from an employee's performance of safety-sensitive duties, in which a court of competent jurisdiction determines that the drug or alcohol test information sought is relevant to the case and issues an order directing that the information be produced.

- (c) In such a proceeding, the information may be released to the decision maker in the proceeding (e.g., the court in a lawsuit), with a binding stipulation that the decision maker to whom it is released will make it available only to parties to the proceeding.

#### **Section 4. EMPLOYER RESPONSIBILITIES**

- a. Each employer working on a site requiring the BTNDAP must be registered to use the BTNDAP or a Program that has been granted reciprocal status in accordance with Section 16.
- b. The employer will initiate any required initial drug testing.
- c. The employer will cooperate fully with directions from the MRO throughout the testing process regarding all testing.
- d. Failure of the employer to comply with the BTNDAP will be grounds to relinquish the employer's access to the system and thus access to projects requiring the BTNDAP.
- e. Each employer will monitor its employees for behavior that may indicate drug or alcohol abuse.
- f. Each employer will provide training to its supervisors on substance abuse issues, including training to enable supervisors to identify and document behaviors that constitute reasonable suspicion for testing. The training also will educate supervisors on how to address refusals to test and how to refer employees for testing or assistance.
- g. Each employer will provide its employees with an employee handbook that contains information about the BTNDAP and how it operates, and educational material on substance abuse issues.

#### **Section 5. EMPLOYEE RESPONSIBILITIES**

- a. Employees are prohibited from using, possessing, distributing, dispensing, manufacturing, being under the influence, or otherwise being involved with illegal drugs and abusive use of chemicals or controlled substances while on employer or client property or while performing the employer's business. In addition, such use, involvement or abuse is prohibited at any time to the extent it violates the law or negatively affects the employer's business or reputation by undermining public or client confidence in safe and efficient operations. Employees are also prohibited from being under the influence of alcohol while on client or employer property or while performing the employer's business, if such use or influence affects employee job performance or safe and efficient operations. When warranted by workplace conditions, the employer will impose stricter

requirements concerning alcohol at job/project locations. In addition, the abuse or being under the influence of alcohol is prohibited at any time to the extent it negatively affects the employer's business or reputation by undermining public or client confidence in safe and efficient company operations.

b. Prohibited Behavior

1. Alcohol

- (a). Reporting for duty or remaining on duty while having an alcohol concentration of 0.02 or greater;
- (b). Possessing alcohol while on duty;
- (c). Using alcohol while performing job functions;
- (d). Using alcohol within eight hours following an accident, or before undergoing a post-accident alcohol test, whichever comes first.

2. Drugs

- (a). Reporting for duty or remaining on duty when not in compliance with the BTNDAP;
- (b). Manufacturing, distributing, or dispensing controlled substances, or possessing or using controlled substances without a prescription from a licensed health care provider.

- c. Each employee shall report for testing as instructed. Failure to report will be considered a refusal to test, which shall be considered a positive result, and the employee will be classified as "not current."
- d. Any employee taking any prescription medication(s) under a health care professional's orders must comply with the drug manufacturer's, the pharmacist's, and the health care professional's recommendations with respect to any possible adverse affect of the medication(s) on the ability to safely perform the employee's job. Any employee taking prescription medication(s) who has received notice either from a health care professional or his or her agent, a drug manufacturer, or the entity that filled the prescription that the medication could have an adverse affect on the ability to safely perform any functions that are necessary to the employee's job must notify the employer prior to starting work.

**Section 6. MEDICAL REVIEW OFFICER RESPONSIBILITIES**

The MRO's duties under the BTNDAP include, but are not limited to:

- a. Promptly evaluating laboratory drug test reports.
- b. Assessing the collection process through careful review of custody and control documents, and verifying appropriate documentation through a uniform and systematic set of procedures. The MRO assesses such critical information as name, signature, social security number/identification number, and specimen identification number. The MRO assesses whether the custody and control documents have proper collection site signatures. In the event of suspicious or adulterated test results, the MRO assesses laboratory results for documentation of suspicious results or adulteration (abnormal pH, GC/MS interference, specific gravity and creatinine levels).
- c. Prompt reporting of negative tests to the employer.
- d. Reviewing positive test results to determine on a case-by-case basis whether there is a legitimate medical explanation for the presence of a drug or class of drugs. When a test result is due to the lawful use of prescription drug(s) that the MRO concludes may raise workplace safety concerns, the MRO shall report the test result as negative, but shall also advise the employer's designated representative that the employee is lawfully using prescription drug(s) that may raise workplace safety concerns.
- e. Determining whether errors occurred in the collection or testing process.
- f. Assessing the employee's medical history and current medical status by interviewing the employee by phone, face-to-face, or as required by employer policy. This shall include discussion with the employee of test results, focusing on specific medications, drugs, or drug-taking experiences. In a face-to-face interview, the MRO shall observe the employee for evidence of illegal drug use. Where required, a clinical examination should occur. Where necessary, the MRO shall contact the employee's physician, dentist, pharmacist, or other health care professional to verify that medications were recently administered, that a drug or drugs were prescribed for medical purposes, or to request patient-approved release of medical records. The MRO shall, on request, assist the employee in obtaining additional laboratory analysis by following the BTNDAP with respect to the original specimen or split specimens. If the employee denies inappropriate drug use, the MRO shall seek to verify the employee's denial, applying current medical knowledge and any evidence that the drug was medically prescribed or administered, or alternatively the MRO shall document that there was, in fact, inappropriate use.
- g. When the MRO concludes that there is a legitimate medical explanation for a positive test result, reporting the test result as negative, resulting in a "current" status in the national database.

- h. When the MRO concludes that the employee has an alcohol or drug abuse problem, recommending to the employee that he or she contact and seek treatment from an approved Qualified Professional in the substance abuse field.
- i. Maintaining complete and detailed records in a secure and confidential manner.
- j. Acting as an intermediary in the transmission of drug and alcohol testing information, subject to applicable laws and regulations.
- k. Operating random testing programs for participating employers and assisting employers with other types of testing (e.g., pre-employment, post-accident, reasonable suspicion, return-to-duty, and follow-up).
- l. Assisting participating employers in ensuring that follow-up testing is conducted in accordance with the plan established by an approved Qualified Professional in the substance abuse field.
- m. Receiving and maintaining all records concerning drug and alcohol testing programs, including positive, negative, refusal to test individual test results in a secure and confidential manner.
- n. Notifying the employer to contact the employee or potential employee and direct the employee or potential employee to contact the MRO. If after 24 hours of being notified to do so, the employee or potential employee does not contact the MRO, the MRO will verify the positive test result and will notify the authorized employer representative of the “not current” status by telephone, computer interface, fax, or in writing.
- o. Maintaining all information needed for operating the BTNDAP (e.g., COCs and associated documentation, names of employees in random pools, random selection lists, copies of notices to employers of selected employees).
- p. Notifying the employer and/or the Database Administrator of the MRO’s findings and whether the employee is “current” or “not current” in the BTNDAP.

## **Section 7. ELIGIBILITY FOR EMPLOYMENT**

- a. Only individuals who are listed in the national database either as “current” or as having a negative P.O.C.T. result may be employed for work on a Covered Project.
- b. Each individual will, upon request, read and sign a Notice and Acknowledgement of Building Trades National Drug and Alcohol Program Testing Requirements Form. Failure to do so constitutes a refusal to test, and the individual will be considered to have tested positive and will be classified as “not current.”

- c. A potential employee who has provided an initial drug test specimen for which results have not been received will be eligible for employment immediately and continuously until the drug test results are received from the laboratory and, if necessary, confirmed by the MRO as “current” or “not current.”
- d. The BTNDAP permits an owner or contractor to require specimen collection under direct observation. It is the responsibility of the owner or contractor to verify that specimen collection under direct observation is permitted by governing local, state, and federal law.

## **Section 8. TYPES OF TESTING**

A urine drug test and/or approved alcohol test shall be administered under the following circumstances:

- a. **Initial Drug Testing:** All potential employees of all contractors at all tiers who work on a Covered Project and who are “not current” under the BTNDAP shall submit to an Initial Drug Test. The Initial Drug Test will test for the presence of illegal/controlled drugs and substances. This test will not include an alcohol test. An alcohol test may be administered based on reasonable suspicion (see Section 8.d). Any potential employee refusing to submit to this test will be classified as “not current” and will not be permitted to work on a Covered Project until the requirements of Section 14, Consequences of a Positive Drug or Alcohol Test, are satisfied.

The initial test may be a laboratory or a P.O.C.T. The employer is responsible for the collection of samples for all P.O.C.T. testing. When collecting samples, the employer must use the Building and Construction Trades COC form and follow accepted industry standards.

If the initial test is a P.O.C.T. and the result is negative, the individual is cleared to work on the project. The employer will convey all negative P.O.C.T. results to the Database Administrator for entry into the national database. If the initial test is a P.O.C.T. and the result is non-negative, the sample will be sent to the laboratory for confirmation testing using GC/MS verification for the substance that was identified on the P.O.C.T. Verified non-negative results will be forwarded to the MRO for review and further processing under the BTNDAP.

Only laboratory test results are entered into the national database as “current” or “not current.” The employer may opt, at its expense, to have all P.O.C.T. samples, whether negative and non-negative results, sent to the laboratory for testing.

*Existing Employees Transferred From Another Location to Work on a Covered Project* must comply with the BTNDAP. Any employee who is not in compliance with the BTNDAP will not be permitted to work on the Covered Project. The

employer must convey transferred employees' drug test results to the MRO for entry into the national database.

- b. **Random Testing:** A minimum annual random selection rate of twenty-five percent (25%) or as permitted by law of the workforce employed on Covered Projects shall be tested. Random testing shall be site-specific. The frequency of random selections shall be monthly. The selection of employees for random testing shall be determined exclusively by the MRO through a random-number generating computer program to ensure complete impartiality and objectivity. Contractors or employers shall not select employees for random testing. The random selection pool shall include all employees on the site except those employees already subject to random testing under a regional or national program with reciprocal status under Section 16 hereto. Random testing shall test for the illegal/controlled drugs and substances set forth in Appendix A hereto.
  1. An employee selected for random drug testing may obtain a deferral of testing if a compelling need necessitates a deferral on the grounds that the employee is:
    - (a). on a leave status (sick, annual, administrative, or leave without pay); or
    - (b). on official travel status away from the test site or is about to embark on official travel scheduled prior to testing notification.
  2. An employee whose random drug test is deferred will be subject to an unannounced test within the following 60 days.
- c. **Annual Testing:** To maintain "current" status under the BTNDAP, employees must be tested at a minimum of once every twelve months. An initial test, random test, for cause test, post accident test, return-to-duty test, or follow-up test will be counted in determining whether an employee has been tested within the previous twelve months. Employees who have not been tested within the previous twelve months must submit to a test when directed to do so to maintain "current" status. Annual testing shall include testing for the illegal/controlled drugs and substances set forth in Appendix A hereto.
- d. **Testing for Cause:** All employees may be tested for cause for illegal/controlled drugs and substances as well as alcohol when a reasonable suspicion exists that the employee is under the influence of illegal/controlled drugs or substances and/or alcohol as provided in Section 11 herein.
- e. **Post-Accident Testing:** An employee with a chargeable accident shall be required to submit to post-accident testing for the use of illegal/controlled drugs or substances and alcohol as provided in Section 12 herein.

- f. **Return-to-Duty Testing:** Employees or potential employees who have tested positive for drugs or alcohol will not be eligible for employment until they pass a return-to-duty test as provided in Section 10 herein. The return-to-duty test need only be for the substance whose misuse caused the employee to be removed from service, but a return-to-duty test may be performed for other drugs and alcohol if there is reasonable suspicion of other drug or alcohol misuse at the time of the return-to-duty testing.
- g. **Follow-Up Testing:** After a confirmed positive test, employees are subject to unannounced testing for illegal/controlled drugs and substances as well as alcohol as directed by an approved Qualified Professional in the substance abuse field. Such employees will be subject, at minimum, to six unannounced follow-up tests in the first 12 months following the employee's return to duty.
  - 1. The Qualified Professional may require a greater number of follow-up tests during the first 12-month period of duty (e.g., one test a month during the 12-month period; two tests per month during the first 6-month period and one test per month during the final 6-month period).
  - 2. The Qualified Professional can terminate the follow-up testing requirement at any time after the first year of testing, but may require follow-up tests during the 48 months of duty following the first 12-month period.

## **Section 9. ALCOHOL AND DRUG TESTING LEVELS**

- a. Testing under the BTNDAP includes tests for alcohol and:

- Amphetamines
- Barbiturates
- Benzodiazepines
- Cocaine
- Opiates
- Phencyclidine
- Propoxyphene (Darvon)
- THC (Marijuana and Cannabinoids)
- Methadone
- 6-Acetylmorphine
- MDA

- b. Testing levels for initial and confirmatory tests are contained in Appendix A hereto.

## Section 10. PROCEDURES FOR DRUG / ALCOHOL TESTING

### a. *Drug Testing.*

1. Specimen collection may occur on-site or at an off-site clinic provided no loss of wages results. Wages will be the responsibility of the employee's employer.
2. Each individual will, upon request, read and sign the certification statement on a Drug Testing Chain of Custody (COC) form and provide date of birth, printed name, social security number, and day and evening contact telephone numbers.
3. Except as set forth herein, specimens shall be collected in accordance with the procedures set forth in the DOT Urine Specimen Collection Guidelines for the U.S. Department of Transportation Workplace Drug Testing Programs including, but not limited to, those procedures governing the use of split samples and those establishing a formal chain of custody.<sup>1</sup>

The circumstances in which directly observed collection is required and the procedures for directly observed collection shall be those set forth in the DOT Urine Specimen Collection Guidelines in effect prior to the revisions effective August 25, 2008.

In the event that a specimen is collected that is outside the acceptable temperature range, a second specimen will be collected under direct observation, and only the second specimen will be submitted to the lab for testing.

The COC form used for testing under the BTNDAP is the Building and Construction Trades Chain of Custody Form for Substance Abuse Testing.

4. Laboratory testing is the preferred method of testing under the BTNDAP. Testing shall be performed only by laboratories listed by the U.S. Department of Health and Human Services in its most current "List of Laboratories which Meet Minimum Standards to Engage in Urine Drug Testing for Federal Agencies," as set forth in the Federal Register.

In the case of laboratory testing, a portion of the sample from the primary specimen will be screened at the laboratory and, if non-negative, another

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<sup>1</sup> Reciprocal regional or national programs that collect specimens in accordance with the procedures set forth in the Mandatory Guidelines for Federal Workplace Drug Testing Programs may continue to do so where permitted by law.

portion from the primary specimen will be tested for confirmation using the GC/MS test.

The laboratory that tests the primary specimen must retain a specimen that was reported with positive, adulterated, substituted, or invalid results for a minimum of one year. Within the one-year period, the MRO, the employee, the union, or the employer, may request in writing that the laboratory retain the specimen for an additional period of time (e.g., for the purpose of preserving evidence for litigation or a safety investigation). The laboratory must comply with such a request. In the absence of such a request, the specimen may be discarded at the end of the year. If the split specimen has not been sent to another laboratory for testing, the laboratory must retain the split specimen for the same period of time that it must retain the primary specimen and under the same storage conditions.

5. *Testing the Split Specimen:* Individuals who have tested positive may dispute the results of the GC/MS test by having a GC/MS test performed on the split specimen at a laboratory certified by SAMHSA (Substance Abuse and Mental Health Services Administration) of their choice. The individual must exercise the option of a second GC/MS test within 72 hours of being notified of the positive test results. The individual's request to the MRO may be oral, but must be followed by a written request. The written request must be sent to the MRO, request the MRO to have the split specimen sent to a different SAMHSA laboratory for testing, include the name, address and phone number of the laboratory, and include a money order in the amount specified by the MRO. The MRO will have available a current list of SAMHSA certified laboratories. The specimen will be shipped directly from the BTNDAP drug testing laboratory to the laboratory of the individual's choice.

The cost of this test will be borne by the individual. If the results of the test are negative, the employer will reinstate the individual with payment of all lost wages and benefits and for the cost of the test.

b. *Alcohol Testing.*

1. *Equipment.* Only approved evidential breath testing devices (EBT) and non-evidential devices for conducting alcohol testing shall be used. These devices are listed on NHTSA's Conforming Products List (CPL). All equipment shall have a quality assurance plan approved by the NHTSA and shall not be used in the event that the device does not meet the specified quality controls.

(a). *Screening Devices.* Either non-evidential devices or EBTs listed on the CPL may be used for screening tests.

(b). Confirmation Devices. Only EBTs listed on the CPL may be used for confirmation testing. The EBT shall be able to distinguish alcohol from acetone and be capable of testing an air blank prior to each collection of breath and performing an external calibration. The EBT shall also be:

(i). Capable of being attached independently or by direct link to a separate printer, print a result in triplicate (or three consecutive identical copies) of each breath test;

(ii). Capable of assigning a unique and sequential number to each completed test so that the number can be read by the Breath Analyzer Technician (BAT) and the employee before each test and be printed out on each copy of the result;

(iii). Capable of printing out the name of the device's manufacturer, the device's serial number, and time of the test.

2. *Procedures.* The designated alcohol testing sites shall comply with the alcohol testing procedures contained in Appendix B. The procedures are intended to comply with the requirements contained in 49 CFR Part 40 Subparts J, K, L, M and N.

3. *Provisions Governing Tested Employees*

(a). Alcohol Concentration. An employee or potential employee shall be prohibited from reporting for duty or remaining on duty while having an alcohol concentration of 0.02 or greater. If an employer representative has actual knowledge that a covered employee has an alcohol concentration of 0.02 or greater, the employee shall not be permitted to work.

(b). If an employee's confirmed test results indicate that the employee violated the BTNDAP's blood alcohol limitation, the employee will be considered "not current" under the BTNDAP.

(c). Any individual who refuses to take an alcohol test within the meaning of the BTNDAP will be considered to have tested positive and will be classified as "not current."

c. *Additional Procedures for Reasonable Suspicion and Post-Accident Testing.*

1. Employee drug tests for reasonable suspicion or post-accident will include testing for the same drugs as identified in Section 9, but also will include testing for alcohol.

2. Reasonable suspicion and post-accident testing shall be performed at the appropriate jobsite trailer or at a designated off-site clinic. A contractor's representative will escort the employee to the testing location.
- d. *Return-to-Duty and Follow-Up Testing Procedures.* Individuals identified through breath or urinalysis testing as positive for alcohol or controlled substance use, or who refuse to be tested must:
1. Be removed from all Covered Projects for the applicable period of time set forth in Section 14;
  2. Undergo a comprehensive assessment and clinical evaluation by an approved Qualified Professional in the substance abuse field to determine what level of assistance the individual needs to resolve problems associated with alcohol abuse or prohibited drug use;
  3. Successfully complete any recommended course of education and/or treatment prior to returning to duty. Treatment recommendations may include, but are not limited to: in-patient treatment, partial in-patient treatment, out-patient treatment, education programs, and aftercare. Education recommendations may include, but are not limited to, bona fide drug and alcohol education courses, self-help groups, and community lectures;
  4. If recommended by the Qualified Professional, undergo a follow-up evaluation to determine if the individual has demonstrated successful compliance with recommendations of the initial evaluation;
  5. Receive a return-to-duty release from the Qualified Professional following the period of suspension;
  6. Forward a cashier's check or money order in the amount specified for return-to-duty testing;
  7. Submit to and pass a return-to-duty test at the approved collection or testing site;
  8. Submit to and pass all required follow-up tests. The individual is responsible for the cost of follow-up testing.
- e. Any employee who refuses to take a drug or alcohol test will be considered to have tested positive and will be classified as "not current."
- f. The MRO will advise the contractor's designated representative and the employee of a "not current" status. If the individual has tested positive or

otherwise is not in compliance with the BTNDAP, the individual will be removed from the Covered Project immediately and paid for all hours worked. The individual will not be eligible for employment with any employer on Covered Projects, until the individual has complied with the requirements of Section 14 herein.

- g. Upon request, the contractor will provide a copy of the positive test result to the individual.

#### **Section 11. PREREQUISITES FOR A DRUG / ALCOHOL TEST BASED ON REASONABLE SUSPICION**

- a. Existing employees working at the Covered Project may be tested for illegal/controlled drugs, substances and alcohol if there is reasonable suspicion that the employee is under the influence of alcohol or any of the substances identified in Section 9. For the purpose of the BTNDAP, the term "reasonable suspicion" shall be defined as aberrant or unusual on-duty behavior of an employee who:
  - 1. is observed on-duty by either the employee's immediate supervisor, higher ranking employee, or other managerial personnel of the contractor who has been trained to recognize the symptoms of drug abuse, impairment or intoxication, which observations shall be documented by the observer(s);
  - 2. exhibits accepted symptom(s) of intoxication or impairment caused by controlled substances or alcohol or addiction to or dependence upon said controlled substances or alcohol; and
  - 3. exhibits conduct that cannot reasonably be explained as resulting from other causes, such as fatigue, lack of sleep, side effect of prescription or over-the-counter medications, illness, reaction to inhalation of noxious substances, dust, or smoke.
- b. By way of example only, reasonable suspicion may be based on any of the following:
  - 1. Observable phenomena, such as direct observation of drug or alcohol use or the physical symptoms or manifestations of being impaired by, or under the influence of, a drug or alcohol.
  - 2. A report by a credible source of on-duty or off-duty drug or alcohol use sufficiently recent to impair performance.
  - 3. Evidence that an individual has tampered with a drug or alcohol test.
  - 4. Evidence that an employee is involved in the use, possession, sale, solicitation, or transfer of drugs or alcohol while on duty, while on the

employer's premises, or while operating the employer's vehicle, machinery, or equipment.

- c. Drug testing of this type will not be conducted without the written approval of the contractor's job superintendent or designated manager who has been trained in identifying conduct constituting reasonable suspicion for testing. A job superintendent or designated manager must document in writing who is to be tested and why the test was ordered, including the specific objective facts constituting reasonable suspicion, and the name of any source(s) of this information. One copy of this document shall be given to the employee before testing, and one copy shall immediately be provided to the Union steward, if requested by the employee. After being given a copy of the document, the affected employee shall be allowed enough time to read the entire document. Failure to follow any of these procedures shall result in the elimination of the test results as if no test had been administered, the test results shall be destroyed, and no disciplinary action shall be taken against the employee.
- d. When an employee, supervisor, or other managerial personnel has reasonable suspicion that an individual is using, consuming, or under the influence of an alcoholic beverage or non-prescribed controlled substance (other than over-the-counter medication) while on duty, that person will notify the job superintendent or designated manager for the purpose of observation and confirmation.
- e. The employee will be offered an opportunity to explain his condition, such as reaction to a prescribed drug, fatigue, lack of sleep, exposure to noxious substances, dust, or smoke, reaction to over-the-counter medication, or illness. If a member of a bargaining unit, the employee shall be advised of the right to have a Union steward or designee present, and if requested, the Union steward or designee shall be entitled to confer with the employee before the explanation is presented and shall be present during the employee's explanation.
- f. If after the employee's explanation the job superintendent or designated manager has reasonable suspicion to believe that the employee is using, consuming and/or under the influence of an alcoholic beverage or non-prescribed controlled substances while on duty, then, by a written order signed by the job superintendent or designated manager, the employee may be ordered to submit to a drug and alcohol test. Refusal to submit to this testing after being ordered to do so will be considered a refusal to test and will result in "not current" status and ineligibility for employment by any contractor on a Covered Project.
- g. If the project owner has a reasonable suspicion testing policy that meets or exceeds the standards set forth herein, that policy may be implemented by the project owner.

## **Section 12. PREREQUISITES FOR POST-ACCIDENT TESTING**

- a. *Post Accident:* An employee with a Chargeable Accident shall be required to submit to post-accident testing for the use of illegal/controlled drugs or substances and alcohol. The tested employee must be escorted by an employer representative to the testing site. Post-accident alcohol testing should be administered within 2 hours after the accident, but in no instance shall be administered more than 8 hours after the accident. Post-accident drug testing must be performed within 32 hours after the accident. In situations where post-accident testing is necessary, the employee is prohibited from consuming alcohol for 8 hours following the accident, or until tested.
- b. A chargeable accident is defined as:
  1. An accident related to employment that results from the employee's negligence and results in property or vehicular damage of one thousand dollars (\$1,000.00) or more; and/or
  2. An accident related to employment that requires any offsite medical treatment or involves an injury or illness that constitutes an OSHA Recordable Incident.
- c. No test will be required if it reasonably appears that the accident was solely attributable to another individual's or individuals' conduct, or where it can be determined that drug or alcohol use did not contribute to the accident.
- d. If an employee is involved in an accident and there is no resulting injury and no property or equipment damage, no test will be required unless there is reasonable suspicion, as defined in the BTNDAP.
- e. An employee who is seriously injured and cannot provide a specimen at the time of the accident shall consent to a blood test or provide the MRO the necessary authorization for obtaining hospital reports and other documents that would indicate whether there were illegal/controlled drugs or substances and/or alcohol in the employee's system. If an employee refuses to comply with this provision, the MRO shall note such refusal, such refusal shall be considered a positive result, and the employee will be classified as "not current."
- f. If the project owner has a post-accident testing policy that meets or exceeds the standards set forth herein, that policy may be implemented by the project owner.

## **Section 13. TAMPERING WITH A TEST / DILUTE TEST RESULTS**

- a. *Tampering with a Test.*

Any individual who attempts to substitute or alter a specimen shall be classified as “not current” under the BTNDAP, as if the test were positive. The laboratory shall make the determination whether a specimen is dilute, substituted or adulterated and report the determination to the MRO in accordance with procedures set forth at 49 CFR Part 40.89 – 40.97.

b. *Dilute Test Results.*

1. Positive Dilute Test Results: The MRO will treat a positive-dilute result as a positive test. The MRO must not direct the individual to take another test.
2. Negative Dilute Test Results: A negative-dilute result will require a retest. The MRO will contact the contractor of the individual to report the dilute test result and provide written instructions for retesting the individual. The employer will direct the individual to retest the following day after being contacted by the MRO. The employer will give the individual instructions provided by the MRO to limit fluid intake prior to the retest. The individual should refrain from consumption of fluids after 9:00 p.m. the night before the retest and limit fluid intake to a minimum the day of and up to collection time. If the individual fails to retest the day after notification, the MRO must approve any retest at a later date. If a retest is not completed within the time allowed by the MRO, the individual’s status will be “not current”. A second consecutive dilute test will be considered a violation and will carry the same consequences as a positive test unless caused by a verified medical condition. An individual’s failure to take another test after directed by the employer constitutes a refusal to test under the BTNDAP.

**Section 14. CONSEQUENCES OF A POSITIVE DRUG OR ALCOHOL TEST**

- a. If a test is positive, the individual will be removed from the Covered Project immediately and paid for all hours worked. The individual will be “not current” and will not be eligible for employment on a Covered Project until the individual has complied with the requirements of this Section.
- b. Individuals who test positive (and local union representatives when allowed for by the applicable collective bargaining agreement, local union rules or apprenticeship policy and procedures) shall have the right to secure a copy of all data relating to the test procedures and results provided.
- c. *First Violation of the BTNDAP*: An employee who tests positive for the first time will be ineligible for employment on all Covered Projects for thirty (30) days from the date that the employee was notified by the MRO of the positive result. The employee may thereafter become eligible for employment on Covered Projects,

contingent on a review of an approved Qualified Professional in the substance abuse field, approval by the MRO, and a negative drug/alcohol test.

- d. *Second Violation of the BTNDAP:* An employee who tests positive for the second time will be ineligible for employment on all Covered Projects for ninety (90) days from the date that the employee was notified by the MRO of the positive result. The employee may thereafter become eligible for employment on Covered Projects, contingent on a review of an approved Qualified Professional in the substance abuse field, approval by the MRO, and a negative drug/alcohol test.
- e. *Third Violation of the BTNDAP:* An employee who tests positive for the third time will be ineligible for employment on all Covered Projects for one year from the date that the employee was notified by the MRO of the positive result. The employee may thereafter become eligible for employment on Covered Projects, contingent on a review of an approved Qualified Professional in the substance abuse field, approval by the MRO, and a negative drug/alcohol test.
- f. *Violations of the BTNDAP Greater than Three:* Each positive result greater than three will result in an additional one year ineligible period for each violation from the date that the employee was notified by the MRO of the positive result. The employee may thereafter become eligible for employment on Covered Projects, contingent on a review of an approved Qualified Professional in the substance abuse field, approval by the MRO, and a negative drug/alcohol test.
- g. The employee is responsible for the fees of the approved Qualified Professional in the substance abuse field.
- h. The BTNDAP is not intended to mitigate a project owner's right to manage the facility. If a project owner has more severe consequences for a positive drug and/or alcohol test result they will be recognized for the project owner's facility only.

## **Section 15. VOLUNTARY DISCLOSURE**

Employees are encouraged to seek help for a drug or alcohol problem before it deteriorates into a disciplinary matter. If an employee voluntarily notifies supervision that he or she may have a substance abuse problem, the company and/or union will assist in locating a suitable employee assistance program for treatment, and will counsel the employee regarding medical benefits available under the company or union health and welfare insurance program. Since the key to this provision's effectiveness is an employee's willingness to admit his or her problem, this provision is not available to an employee who requests protection under this provision after: (a) being asked to submit to a drug or alcohol test; or (b) having been found to have violated any of the provisions of the BTNDAP.

If treatment does not necessitate time away from work and an approved Qualified Professional in the substance abuse field deems the employee capable of continuing to work without posing a danger to the employee or others, the employee will retain employment status. If treatment necessitates time away from work, the company shall, if the project or work permits, provide the employee with an unpaid leave of absence for purposes of participation in an agreed upon treatment program. An employee who successfully completes a rehabilitation program and provides a negative substance abuse test shall be reinstated to former employment status, if the project is ongoing and work for which the employee is qualified is available.

## **Section 16. RECIPROCITY**

The goals of the BTNDAP will be met by recognizing similar efforts, either on a regional or national basis, that meet or exceed the minimum standards set forth herein. A regional or national program can obtain reciprocal status with a goal to exchange data with the national database when all of the following conditions are satisfied:

- a. The program is embodied in a written policy;
- b. The panel of drugs tested must include those set forth herein;
- c. The cutoff values for each drug must meet or exceed the values set forth herein;
- d. Testing is at least as frequent as set forth herein;
- e. The program implements substantially similar procedural safeguards to ensure the integrity of the testing process, including the use of MROs;
- f. The policy provides for applicant testing, annual testing, random testing, reasonable suspicion testing, post-accident testing, return-to-duty testing and follow-up testing;
- g. The policy contains a bona fide dispute resolution process;
- h. The policy uses a bona fide method of discipline that imposes similar consequences for failing a drug test;
- i. The policy provides means and methods for employee rehabilitation through a Qualified Professional in the substance abuse field;
- j. The policy provides for reasonable suspicion training.

Programs that have been granted reciprocal status will submit, on a daily basis, employee testing data to the national database. All regional and national programs with reciprocal status are responsible for administering their own programs but shall provide

the BTNDAP Executive Director with current copies of all governing policies and procedures.

## **Section 17. RESOLUTION OF DISPUTES**

- a. The following procedure shall be used to resolve all disputes relating to the BTNDAP with the exception of those disputes involving employees covered by a collective bargaining agreement that references the BTNDAP or a Policy that has been granted reciprocal status. The parties to such a collective bargaining agreement should use the dispute resolution procedure contained in that collective bargaining agreement. However, the parties to such a collective bargaining agreement may use the following procedure, or any portion thereof, in any particular dispute if so agreed by all parties to the dispute.
- b. When a dispute arises pertaining to the administration of the BTNDAP, it shall be the responsibility of the Union and the Employer to attempt to resolve the matter. If the employee is not covered by a collective bargaining agreement, the employee and the employer will attempt to resolve the matter. The parties may consult with the Executive Director to assist in resolving the matter.
- c. Oversight Committee. If the matter is not resolved by the relevant Union or unrepresented employee and the Employer, the parties will have 5 days to refer the problem to the Oversight Committee. The Oversight Committee will convene a meeting within 10 days of receipt of a request from a Local Union, unrepresented employee, or Employer. The Oversight Committee will accept verbal and written statements and review testimony and exhibits. The Oversight Committee will consist of equal numbers of Union and contractor representatives, who will seek to reach consensus. The Oversight Committee will be chaired by an individual elected by the full Oversight Committee who will serve as the tiebreaker in case a vote is necessary to reach decision. The Oversight Committee will render a decision as to the merit of the grievance within 5 days of the meeting. The Oversight Committee's decision will be final and binding.

## **Section 18. OWNER REQUIREMENTS**

Where an Owner has more stringent requirements than those set forth herein, the Owner's requirements shall prevail.

## **Section 19. BTNDAP FORMS**

The following forms, found at Appendix C, shall be used in administering the BTNDAP:

- a. Notice, Acknowledgement of and Consent to Building Trades National Drug and Alcohol Program Testing Requirements.

- b. Building Trades National Drug and Alcohol Program Contractor Authorization for Specimen Collection.

Additional forms required for the administration of the BTNDAP are available at <http://www.safesitesforhardhats.com>.

## **Section 20. GENERAL PRINCIPLES**

- a. It is understood that neither the BCTD, nor its constituent member organizations and affiliated Unions, shall be responsible for ascertaining or monitoring the drug-free or alcohol-free status of any employee or applicant for employment.
- b. No employee or employer may modify any document involved in the administration of the BTNDAP.
- c. If an individual is regulated by Department of Transportation or Nuclear Regulatory Commission regulations, the provisions of the BTNDAP shall apply to the extent that they do not conflict with such regulations.
- d. Should any provision of this agreement be declared illegal by any court of competent jurisdiction, such provision shall immediately become null and void, leaving the remainder of the BTNDAP in full force and effect and the parties shall, thereupon seek to negotiate substitute provisions that are in conformity with applicable laws.

## Appendix A

<u>Drug Group</u>	<u>Testing Levels</u>	<u>Initial Test ng/ml</u>	<u>Confirmation Test ng/ml</u>
<b>Cannabinoids* (THC)</b>		50	15
<b>Cocaine</b>			
Benzoyllecgonine*		150	100
<b>Amphetamines*</b>		500	250
MDMA (Confirmation for MDMA, MDA, MDEA) (Ecstasy)		500	250
<b>Opiates*</b>		300**	300**
Propoxyphene		300	300
6-Acetylmorphine		10	10
Methadone		300	300
<b>Phencyclidine* (PCP)</b>		25	25
<b>Benzodiazepine</b>		300	300
<b>Barbiturates</b>		300	200
<b>Alcohol</b>		≥0.02% BAC	≥0.02% BAC

\* Cut-off values shall meet or exceed those established by SAMHSA's Mandatory Guidelines for Federal Workplace Drug Testing Programs.

\*\*Includes extended Opiates – Oxycodone, Hydrocodone, and Hydromorphone.

## Appendix B

### **ALCOHOL TESTING PROCEDURES**

A. Scope.

1. The evidential and non-evidential testing procedures set forth in this appendix address all the requirements as set forth in 49 CFR Part 40 and specifies the required form and disposition of such testing forms.

B. Alcohol Testing Form.

1. The Breath Alcohol Technician/Screening Test Technician (BAT/STT) shall utilize the Breath Alcohol Testing form provided by the Plan Administrator. The alcohol testing form must comply with the provisions as contained in 49 CFR Part 40 with regard to the information that must be contained on the form. The form must address the specific requirements contained in § 40.225. An employer may not modify or revise the form.
2. The form shall provide triplicate or three consecutive identical copies with copy 1 (white copy) being retained by the company, copy 2 (green copy) shall be provided to the employee, and copy 3 (blue copy) shall be retained by the BAT/STT.
3. The breath alcohol testing form may include such additional information as may be required for billing or other legitimate purposes necessary to the testing, provided that personal identifying information on the individual (other than the social security number or employee identification number) may not be provided.

C. Breath Alcohol Testing Preparations.

1. When an employee arrives at the alcohol testing site, the BAT/STT shall ensure that the individual is positively identified as the employee selected for alcohol testing (e.g., through presentation of photo identification or identification by the company's representative). If the employee's identity cannot be established, the BAT/STT shall not proceed with the alcohol test. If the employee requests, the BAT/STT shall show proper identification to the employee.
2. The BAT/STT shall explain the alcohol testing process to the employee.
3. If the employee fails to arrive at the assigned time, the BAT/STT should contact the appropriate authority to obtain guidance on any action to be taken.

D. Screening Test Procedures for Evidential Breath Testing and Non-Evidential Breath Testing Devices.

1. The BAT shall begin the alcohol testing process by completing Step 1 on the Alcohol Breath Testing form. The employee shall then complete Step 2 by signing the certification. Refusal by the employee to sign the certification shall be regarded as a refusal to take the alcohol test.
2. The BAT shall employee to select an individually-sealed mouthpiece and it shall be opened in full view of the employee and attach it to the EBT in accordance with the manufacturer's instructions.
3. The BAT shall instruct the employee to blow forcefully into the mouthpiece for at least 6 seconds or until the EBT instrument indicates that an adequate amount of breath has been obtained.
4. If the EBT displays a result showing an alcohol concentration of 0.02 or greater, the BAT shall show the employee the result displayed on the EBT. The BAT shall record the displayed result, test number, testing device, serial number of the testing device, time and quantified result in Step 3 of the form.
5. If the EBT provides a printed result but does not print the results directly onto the form, the BAT shall show the employee the result displayed on the EBT. The BAT shall then affix the test result printout to the breath alcohol test form in the designated space. The result shall be secured in such a manner that will provide clear evidence of removal, such as the use of tamper-evident tape.
6. If the EBT prints the test result directly onto the alcohol form, then the BAT shall show the employee the result displayed on the EBT.
7. If the result of the screening alcohol test is a breath alcohol concentration of less than 0.02, the BAT shall date the form and sign the certification in Step 3 of the form. The employee shall then sign the certification and fill in the date in Step 4 of the form. If the employee does not sign the certification in Step 4, it shall not be considered a refusal to be tested. In this event, the BAT shall note the employee's failure to sign in the "Remarks" section of the form.
8. If a test result printed by the EBT does not match the displayed result, the BAT shall note the disparity in the "Remarks" section. Both the BAT and the employee shall initial or sign the notation. The alcohol test is invalid and the company representative and the employee shall be so advised.

9. At this point, no further testing is authorized. The BAT shall transmit the result of less than 0.02 to the appropriate employer representative in a confidential manner. The employer shall receive and store the information so as to ensure that confidentiality is maintained.
10. If the result of the screening test is an alcohol concentration of 0.02 or greater, then the BAT shall perform a confirmation test. If the confirmation test will be conducted by a different BAT, then the BAT who conducts the screening test shall complete and sign the form and log entry. The BAT will upon completion of the alcohol test provide the employee with Copy 2 of the breath alcohol testing form.

E. Screening Test Procedures for Non-Evidential Saliva Devices.

1. STT will inform the employee of the procedures for the non-evidential testing. The STT shall begin the alcohol testing process by completing Step 1 on the Alcohol Breath Testing form. The employee shall then complete Step 2 by signing the certification. Refusal by the employee to sign the certification shall be regarded as a refusal to take the alcohol test.
2. The STT shall check the expiration date of the saliva testing device, and show the date to the employee. In the event the expiration date has passed the device is not to be used and a new device should be obtained for use.
3. The STT shall open an individually sealed package containing the device in the presence of the employee.
4. The STT shall offer the employee the opportunity to use the swab. If the employee chooses to use the swab, the STT shall instruct the employee to insert the absorbent end of the swab into the employee's mouth, moving it actively throughout the mouth for a sufficient time to ensure that it is completely saturated as provided in the manufacturer's instruction for the device.
5. If the employee chooses not to use the swab, or in all cases in which a new test is necessary because the device did not activate, the STT shall insert the absorbent end of the swab into the employee's mouth, moving it actively throughout the mouth for a sufficient time to ensure that it is completely saturated, as provided in the manufacturer's instruction for the device. The STT shall wear a surgical grade glove while conducting the test.
6. The STT shall place the device on a flat surface or otherwise in a position in which the swab can be firmly placed into the opening provided in the device for this purpose. The STT shall insert the swab into this opening

and maintain firm pressure on the device until the device indicates that it is activated.

7. If the procedures of steps 3 through 5 are not followed successfully (e.g., the swab breaks, the STT drops the swab on the floor or another surface, the swab is removed or falls from the device before the device activated), the STT shall discard the device and swab and conduct a new test using a new device. The new device shall be one that has been under the control of the employer or STT prior to the test. The STT shall note in the remarks section of the form the reason for the new test. In this case, the STT shall offer the employee the choice of using the swab himself or herself or having the STT use the swab. If steps 3 through 5 are not successfully followed on the new test, the collection shall be terminated and an explanation provided in the remarks section of the form. A new test shall then be conducted, using an EBT for both the screening and confirmation tests.
8. If steps 3 through 5 are completed successfully, but the device is not activated, the STT shall discard the device and swab and conduct a new test, in the same manner as stated above. In this case, the STT shall place the swab into the employee's mouth to collect saliva for the new test.
9. The STT shall read the result displayed on the device two minutes after inserting the swab into the device. The STT shall show the device and its reading to the employee and enter the result on the form.
10. Devices, swabs gloves and other materials used in saliva testing shall not be reused, and shall be disposed of in a sanitary manner following their use.
11. In any case in which the result of the screening test is an alcohol concentration of less than 0.02, the STT shall date the form and sign the certification and fill in the date in Step 4 of the form.
12. If the employee does not sign the certification in Step 4 of the form it shall not be considered a refusal to be tested.
13. If the result of the screening test is an alcohol concentration of 0.02 or greater, a confirmation test shall be performed.
14. If the STT who performed the screening test is a different individual from that who will serve as the BAT during the confirmation test, then the STT will provide the employee with Copy 2 of the form and the BAT will follow the procedures for a confirmation test.

15. If the confirmation test will be conducted at a different site from the screening test the employer or its agent shall ensure that:
  - a. The employee is advised not to eat, drink, put any object or substance in their mouth and to the extent possible not to belch during the waiting period before the confirmation test. This time period begins with the completion of the screening test.
  - b. The employee is advised that he or she must not drive, perform a safety-sensitive duty or operate heavy equipment, as noted in block 4 of the alcohol testing form.
  - c. The employee is under observation of a BAT, STT, or other employer personnel while in transit from the screening test site to confirmation test site.
16. The STT shall enter, in the "Remarks" section of the form, a notation that the screening test was performed using a saliva device.
17. Following the completion of the screening test, the STT shall date the form and sign the certification in Step 3 of the form.

F. Confirmation Test Procedures.

1. When a BAT other than the one who conducted the screening test is required to conduct the confirmation test, the new BAT will require the employee to provide positive identification such as photo ID card or identification by a company representative. The BAT will, upon request of the employee being tested, provide such identification.
2. The BAT shall instruct the employee not to eat, drink, put any object or substance in his/she mouth and, to the extent possible, not belch during the waiting period just prior to the confirmation test being conducted. This waiting period shall begin with the completion of the screening test and shall not be less than 15 minutes, but must be within 30 minutes of the completion of the screening test. The time the employee spends in transit between the screening test and confirmation test, the employee is under direct observation, counts toward the mandatory 15 minute deprivation period. If the BAT conducts the confirmation test more than 30 minutes after the result of the screening test has been obtained the BAT shall note in the "Remarks" section of the form the time that elapsed between the screening and the confirmation test and the reason why the confirmation test could not be conducted within 30 minutes of the screening test. The BAT shall explain to the employee that the reason for this is to prevent any accumulation of mouth alcohol leading to an artificially high reading and that it is for the benefit of the employee to comply with these instructions.

The BAT shall also explain that the test will be conducted at the end of the required waiting period, even if the employee has disregarded the instructions. Should the BAT become aware that the employee has not complied with the instructions as provided; the BAT shall note the observations in the "Remarks" section of the form.

3. When a BAT other than the one who conducted the screening test is required to conduct the confirmation test, the new BAT shall initiate a new Breath Alcohol Testing form. The BAT shall then complete step 1 on the form and the employee shall then complete Step 2 by signing the certification. If the employee should choose not to sign the certification, the BAT shall then make an appropriate notation in the "Remarks" section indicating the employee's refusal to take the alcohol test. The BAT shall note in the "Remarks" section that a different BAT conducted the screening test.
4. The BAT shall open, in the presence of the employee, a new individually-sealed mouthpiece and attach the mouthpiece to the EBT in accordance with the manufacturer's instructions. The BAT will then instruct the employee to blow forcefully into the mouthpiece for at least 6 seconds or until the EBT indicates that an adequate amount of breath has been obtained.
5. The BAT shall ensure, prior to the confirmation test being administered to the employee, that the EBT shall register 0.00 on an air blank. If the reading is greater, the BAT shall conduct one more air blank. Should the EBT again register greater than 0.00, the testing shall not proceed using that EBT. An EBT taken out of service because of failure to perform an air blank accurately shall not be used for testing until a check of external calibration is conducted and the EBT is found to be within the accepted tolerance limits. Alcohol testing using another EBT may proceed.
6. In the event that the screening and confirmation test results are not identical, the confirmation test result shall be deemed to be the final result on which any action by the company may be taken in order to comply with the BTNDAP and any applicable federal requirements.
7. If the EBT provides a printed result but does not print the results directly onto the form, the BAT shall show the employee the result displayed on the EBT. The BAT shall then affix the test result printout to the breath alcohol test form in the designated space. The result shall be secured in such a manner that will provide clear evidence of removal, such as the use of tamper-evident tape.
8. If the EBT prints the test result directly onto the alcohol form, then the BAT shall show the employee the result displayed on the EBT.

9. After the confirmation test is completed, the BAT shall date the form and sign the certification in Step 3 of the form. The employee shall then be instructed to sign the certification and fill in the date in Step 4. If the employee should elect to not sign the certification or to provide his/her initials in the log book entry for the test conducted, it shall not be considered as a refusal to be tested. The BAT shall then note the employee's failure to sign or initial the log book entry in the "Remarks" section of the testing form.
10. If a test result printed by the EBT does not match the displayed result, the BAT shall note the disparity in the "Remarks" section. Both the BAT and employee shall initial or sign the notation on the testing form. The test shall be considered "invalid" and the company representative and the employee shall be so advised.
11. The BAT shall transmit all alcohol testing results to the laboratory vendor, and all results showing an alcohol concentration of 0.02 or greater to the MRO as well, in a confidential manner. All communications by BATs shall be to the laboratory vendor, the MRO, or a designated employer representative only and may be provided in writing, in person, or by telephone or electronic means. The BAT shall ensure that immediate transmission of test results to the company is conducted in order for the company to prevent the employee from performing any covered functions.
12. Should the initial transmission not be accomplished in writing, but via telephone notification, the laboratory vendor, MRO, or employer designated representative shall establish a mechanism to verify the identity of the BAT providing the information. The BAT shall follow the initial transmission by providing to the laboratory vendor and/or MRO the employer's copy of the breath alcohol testing form. The test results shall be stored in such a manner so as to protect the confidentiality of the results and to eliminate the disclosure of information to unauthorized persons.

G. Refusals to Test and Uncompleted Tests.

1. Refusal by an employee to complete and sign Step 2 of the breath alcohol testing form, to provide breath or a saliva sample, to provide an adequate amount of breath, or otherwise to cooperate with the testing process in a way that prevents the completion of the test shall be noted by the BAT/STT in the "Remarks" section of the form. The testing process shall be terminated and the BAT/STT shall immediately notify the employer.
2. If a screening or confirmation test cannot be completed or if an event occurs to invalidate the test, the BAT/STT shall, if practicable, begin a new

screening or confirmation test using a new breath alcohol testing form with a new sequential test number.

H. Inadequate Amount of Breath for EBTs and Non-EBT Devices.

1. If the employee is unable, or alleges that he/she is unable, to provide a sufficient amount of breath to permit a valid breath test because of a medical condition, the BAT or STT shall again instruct the employee to attempt to provide an adequate amount. If the employee refuses to make the attempt, the BAT or STT shall immediately inform the laboratory vendor and/or employer designated representative.
2. If the employee attempts and fails to provide an adequate amount of breath, the BAT or STT shall so note in the "Remarks" section of the testing form and shall immediately inform the laboratory vendor, MRO, and/or employer designated representative. The employee shall be directed to obtain, as soon as practical after the attempt, an evaluation from a licensed physician who is acceptable to the company concerning the employee's medical ability to provide an adequate amount of breath.
3. If the physician determines, in his/her reasonable medical judgment, that a medical condition has or could have precluded the employee from providing an adequate amount of breath, the employee's failure to provide an adequate amount of breath shall not be deemed as a refusal to take an alcohol test. The physician shall provide to the laboratory vendor, MRO, and/or employer designated representative a written statement of the basis of his/her conclusion.
4. If the physician, in his/her reasonable medical judgment, is unable to make the determination that a medical condition has precluded the employee from providing an adequate amount of breath, the employee's failure to provide an adequate amount of breath shall be regarded as a refusal to take a test. The physician shall provide a written statement of the basis for his/her conclusion to the laboratory vendor, MRO, and/or employer designated representative.

I. Inadequate Amount of Saliva for Non-Evidential Testing Devices.

1. If an employee is unable to provide sufficient saliva to complete a test on a saliva screening device (e.g. the employee does not provide sufficient saliva to activate the device) the STT shall conduct a new test using a new device as described in Section F "Screening Test Procedures for Non-Evidential Saliva Devices #7."

- a. If the employee refuses to complete the new test, the STT shall terminate testing and immediately inform the employer. This constitutes as a refusal to test.
  2. If a new test is completed, but there is an insufficient amount of saliva to activate the device the STT shall immediately inform the employer, which shall then immediately initiate an alcohol test to be administered to the employee using an EBT.
- J. Invalid Tests.
  1. A breath alcohol test shall be invalid under the following circumstances:
    - a. The EBT does not pass its next external calibration check. This invalidates all test results of 0.02 or greater on tests conducted since the last valid external calibration test. This would not invalidate any negative tests conducted.
    - b. The BAT does not observe the minimum 15-minute waiting period prior to conducting the confirmation test.
    - c. The BAT does not perform an air blank of the EBT before a confirmation test, or an air blank does not result in a reading of 0.00 prior to the administration of an alcohol test.
    - d. The BAT does not sign the breath alcohol testing form.
    - e. The BAT fails to note in the remarks section of the form that the employee has failed or refused to sign the form following the recording or printing on or attachment to the form of the test results.
    - f. An EBT fails to print a confirmation test result.
    - g. The sequential test number or alcohol concentration displayed on the EBT is not the same as the sequential test number or alcohol concentration on the printed result.
  2. An alcohol test using a non-evidential saliva screening device shall be invalid under the following circumstances:
    - a. The result is read before two minutes or after 15 minutes from the time the swab is inserted into the device.
    - b. The device does not activate.

- c. The device is used for a test after the expiration date printed on its package.
  - d. The STT fails to note in the remarks section of the form that the screening test was conducted using a saliva device.
- 3. An alcohol test using a non-evidential alcohol testing device shall be invalid under the following circumstances if the STT has failed to note in the remarks section of the form that the employee has failed or refused to sign the form following the recording on the form of the test result.

## **Appendix C**

### BTNDAP Forms:

1. Notice, Acknowledgement of and Consent to Building Trades National Drug and Alcohol Program Testing Requirements.
2. Building Trades National Drug and Alcohol Program Contractor Authorization for Specimen Collection.

# **NOTICE, ACKNOWLEDGEMENT OF AND CONSENT TO BUILDING TRADES NATIONAL DRUG AND ALCOHOL PROGRAM TESTING REQUIREMENTS**

## **PART 1: NOTICE**

This is to inform you that all current employees and applicants for employment with \_\_\_\_\_ (employer) must, as a condition of employment, abide by the Building Trades National Drug and Alcohol Testing Program (BTNDAP), which includes testing to identify job applicants and current employees who may be abusing drugs and/or alcohol.

A copy of the BTNDAP Policy and BTNDAP Employee Handbook accompanies this notice. Please note the following important information:

1. The BTNDAP includes mandatory drug and alcohol testing;
2. Laboratory testing is a series of tests that are highly accurate and reliable, and, as an added safeguard, test results are reviewed by a Medical Review Officer;
3. The following types of testing may occur: (a) pre-employment testing; (b) periodic (*i.e.*, annual) testing; (c) random testing; (d) reasonable suspicion testing; (e) post-accident testing; and (f) testing as a condition of returning to duty or as part of or as a follow-up to counseling or rehabilitation;
4. An opportunity will be afforded to submit medical documentation of lawful use of a controlled substance;
5. An employee's testing information may be released, electronically or otherwise, to the employer's designated representative, to a Medical Review Officer, to the BTNDAP database, and to the BTNDAP Executive Director. Testing information may also be released to law enforcement officials under court order, your representatives designated in writing, persons deciding matters on review or appeal, persons authorized to change personal data in electronic records, and other persons pursuant to court order;
6. If the Medical Review Officer concludes that the employee's lawful prescription drug use may raise workplace safety concerns, the Medical Review Officer will advise the employer's designated representative of the prescription drug use for the employer's further review with the employee and possible action;
7. Alcohol and drug abuse counseling and rehabilitation are available through the Employee Assistance Program (EAP);
8. Employees will have the opportunity before being asked to submit to a drug and/or alcohol test or being found in violation of the BTNDAP to

voluntarily admit to being users of illegal drugs or alcohol abusers and to receive counseling or rehabilitation, in which case disciplinary action is not required.

The refusal to test or to cooperate in testing by an applicant for employment will result in the termination of the pre-employment selection process, and the refusal to test or to cooperate in the testing by an employee will result in disciplinary action up to and including discharge.

An applicant for employment who is not in compliance with or current under the BTNDAP will not be hired, and an employee who fails to remain in compliance with or current under the BTNDAP may be subject to disciplinary action, up to and including discharge.

**Remaining drug free and participation in the BTNDAP are conditions of continued employment.**

## **PART II: ACKNOWLEDGEMENT & CONSENT**

I acknowledge receipt and understanding of the above written notice and agree to abide by the terms of the BTNDAP pertaining to drugs and alcohol. The BTNDAP has my consent to perform drug and alcohol testing. I authorize the individual, organization, institution, or entity that now has, or obtains in the future, drug and/or alcohol testing information about me to release such information to my employer or potential employer, the person(s) who maintain the BTNDAP national database, the Medical Review Officer, and the BTNDAP Executive Director, and to others as authorized by the BTNDAP.

I hereby release the BTNDAP, and its officers, employees, representatives, agents and records custodians as well as the officers, employees, representatives, agents and records custodians of my employer and any other entity or individual supplying or using such information from any and all liability based on their authorized receipt, disclosure, or use of the information obtained pursuant to this Notice, Acknowledgement and Consent and to determine my status in the BTNDAP national database.

I understand that at any time and upon written notice to \_\_\_\_\_ (employer), I may withdraw this Consent, but this will also constitute a withdrawal of my request for employment. I understand that any processing activities that were initiated before receipt of my withdrawal of Consent shall continue and the resulting information will be retained. No new activities shall be initiated after receipt of my withdrawal of Consent and other contractors are not permitted to receive information, other than my name and the fact that my Consent has been withdrawn, thereafter unless I provide a currently valid Consent or it is required by order of law.

**I have read and understand this Notice, Acknowledgement and Consent and authorize the BTNDAP and \_\_\_\_\_(employer) to take such actions as are described herein and in the BTNDAP Policy. While I understand that my eligibility for employment is dependent upon my accepting the requirements of the BTNDAP, the statements made by me in this Notice, Acknowledgement and Consent and my decision to sign it are voluntary. The statements were not induced by any promise nor have I been subjected to any threat, duress, or coercion to sign this Notice, Acknowledgment and Consent.**

\_\_\_\_\_  
**Applicant or Employee Printed Name**

\_\_\_\_\_  
**Social Security Number**

\_\_\_\_\_  
**Applicant or Employee Signature**

\_\_\_\_\_  
**Date**

